

TITLE 327 WATER POLLUTION CONTROL BOARD

IDEM'S SUGGESTED CHANGES TO PROPOSED AMENDMENTS CONCERNING STORM WATER DISCHARGES UNDER 327 IAC 5-4-6 NPDES AND PRETREATMENT PROGRAMS; AND NEW RULES UNDER 327 IAC 15-13 GENERAL PERMIT RULE PROGRAM RELATED TO MUNICIPAL SEPARATE STORM SEWER SYSTEMS

LSA Document #01-96

Revisions made by LSA under the Administrative Rules Drafting Manual (IC 4-22-8-4(a)(2)) and incorporated into the printed version (LSA Document #01-96, 26 IR 829) have been made in the version of this rule presented to the board for final adoption. These changes are NOT listed in this list of suggested changes.

Page references are to the rule as preliminarily adopted.

Page 2 327 IAC 5-4-6(a)

Delete **“are subject to”** after **“entirely of storm water”**

Insert **“require”** after **“entirely of storm water”**

Delete **“which”** after **“A discharge”**

Insert **“that the commissioner determines”** after **“A discharge”**

Delete **“the commissioner determines”** before **“contributes to a violation of a water quality standard”**.

Delete **“is subject to the requirements of 327 IAC 15 if”** and

Insert **“meets the conditions of”** before **“one(1) of the six (6) cases listed...”**

Insert **“(b)”** after **“327 IAC 15-2-9”**.

Delete **“occurs”** after **“327 IAC 15-2-9(b)”**.

Insert **“A discharge with respect to which a permit has been issued prior to February 4, 1987.”** after **“(2)”**

Delete **“exposed to categories of industrial activity specified in 327 IAC 16-6-2”** after **“(3) A discharge”**

Insert **“unless the effluent limitations are placed in a general permit under article 15.”** after **“effluent limitation guidelines”**

Delete **“(3)”** and renumber by inserting **“(4)”**

Delete **“(4)”** and renumber by inserting **“(5)”**

Insert **“or (iv)”** after **“40 CFR 122.26(a)(iii)”**

Page2 327 IAC 5-4-6(b)

Delete **“are subject to”** after **“The following discharges consisting entirely of storm water”**

Insert **“require an NPDES permit and are eligible for coverage under a”** after **“The following discharges consisting entirely of storm water”**

Insert **“,unless one(1) of the conditions in subsection (a) is met”**

Delete **“as defined in 327 IAC 15-4(20)”** after **“common plan of development or sale”**

Delete subdivisions (3), (4), (5), and (6)

- Insert new subdivision (3) to read: **“A discharge from an MS4 conveyance that meets the designation criteria in 327 IAC 15-13-3(a) or 327 IAC 15-13-3(b).**
- Page 4 327 IAC 5-4-6(d)
Delete **“For”** and replace with **“If”** after **“(d)”**
Insert **“is”** after **“NPDES permit”**
Insert **“,”** after **“subsection (a)”**
Change **“shall”** to **“may”** after **“the department”**
Add clause numbering **“(A)”** in subdivision (1)
Insert **“,as appropriate to the type of storm water discharge; or”** after **“327 IAC 15-13”**
Insert new clause (B) as **“(B) 327 IAC 5-2, 327 IAC 5-5, and 327 IAC 5-9 for establishing NPDES permit effluent limitations and conditions.”**
Insert **“The United States Environmental Protection Agency guidance document titled “Interim Permitting Approach for Water Quality-Based Effluent Limitations in Storm Water Permits” (August 1, 1996).”**
Renumber (3) and (4).
- Page 6 327 IAC 5-4-6(g)
Insert **“, unless defined as follows:**
(1) “General NPDES permit” means an authorization to discharge under the NPDES rules, that is applicable to all owners and operators of point sources of a particular category located within a designated general permit boundary, other than owners and operators of such sources to whom individual NPDES permits have been issued.
(2) “Individual NPDES permit” means an authorization to discharge under the NPDES rules, that is applicable to an individual owner or operator of point sources, and establishes requirements specific for that owner or operator.”
- Page 6 327 IAC 5-4-6
Insert at the end of the rule **“*Copies of the United States Environmental Protection Agency guidance document referenced in this section may be obtained from the Government Printing Office, Washington D.C. 20402 or the Indiana Department of Environmental Management, Office of Water Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.”**
- Page 2 327 IAC 15-13-2
Insert **“327 IAC 5-4-6(a)(5)”** in subdivision (1) after **“an individual permit under”**
- Page 7 327 IAC 15-13-3(a)
Delete **“1990 or”** after **“a mapped”**
Insert a new subdivision (8) to read **“(8) A conservancy district or**

homeowner's association with a population within their service area of greater than or equal to one thousand (1,000) people, located within a designated municipality or mapped UA, and having responsibility for a storm water conveyance."

Renumber preliminary adopted subdivision (8) to subdivision (9).

Delete "(7)" and replace with "(8)" after "subdivisions (1) through"

- Page 8 327 IAC 15-13-3(b)
Delete "outside of a mapped UA" after "An MS4 entity"
- Page 8 327 IAC 15-13-3(c)
Insert "or a waiver is granted in accordance with subsection (f)"
- Page 8 327 IAC 15-13-3(d)
Insert "If the department does not notify an MS4 entity in writing, an MS4 entity meeting the designation criteria of this section must comply with the requirements of 327 IAC 15-13-9(e)." after "this section in writing."
- Page 8 327 IAC 15-13-3(f)
Add new subsection (f) by inserting the following: **"(f) A designated MS4 entity may request a waiver from permit coverage under this rule. Unless an MS4 entity's conveyance system is substantially contributing to the pollutant loadings of a regulated, physically interconnected MS4 entity or a department determination is made that requires storm water controls, MS4 entities within a mapped UA that have a conveyance system serving a population of less than 1,000 are conditionally granted a waiver. For all other MS4 entities, this waiver will only be granted under the following conditions:**
(1) The MS4 entity's conveyance system serves a population of less than 10,000;
(2) The MS4 entity's conveyance system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 entity that is regulated by this rule;
(3) An evaluation of all waters that receive a discharge from the MS4 entity's conveyance system has been conducted by the department or another approved entity;
(4) For all evaluated waters, the department has determined that storm water controls are not needed based on wasteload allocations that are part of a United States Environmental Protection Agency approved or established total maximum daily load or equivalent process, and are reflective of pollutants identified as sources of impairment; and
(5) The department has determined that future discharges from the MS4 entity's conveyance system do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including

habitat and biological impacts.”

- Page 8 327 IAC 15-13-4(b)
 Insert “**as specified under section 3(a)(2) of this rule,**”after “**depicted in a mapped UA**”
- Page 8 327 IAC 15-13-5
 Insert “**the specific examples described in 40 CFR 144.81**” after “**the term includes**” in subdivision (4)
- Page 12 Insert new subdivision (35) to read: “ **Larger common plan of development or sale**” means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designed, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased construction by a single entity for its own use.”
 Renumber the remaining subdivisions.
- In preliminary adopted subdivision (39) (new subdivision (40)) in the definition for “MS4 area”, delete “**327 IAC 5-4-6(a)(3)**” and replace with “**327 IAC 5-4-6(a)(4)**” after “**regulated by this rule or**”
- Delete “ **327 IAC 5-4-6(a)(4)**”
 and replace with “**327 IAC 5-4-6(a)(5)**” after “**and**”
- Page 13 In preliminary adopted subdivision (46) (new subdivision (47)) in the definition for “Notice of deficiency letter”, delete “**their**” and replace with “**its**” after “**deficiencies in**”
- In preliminary adopted subdivision (48) (new subdivision (49)) definition for “Notice of sufficiency letter”, delete “**their**” and replace with “**its**”
- In preliminary adopted subdivision (49) (new subdivision (50)) definition for “Notice of termination letter”, insert “**MS4**” after “indicating that an”and delete “**their**” and replace with “**its**”
- Page 14 In preliminary adopted subdivision (52) (new subdivision (53)) definition for “Outfall scouring”, insert “**or lakebed**” after “**of a streambed**”
 Delete “**suitable**” after “**solid material results and**”
- In preliminary adopted subdivision (60)(new subdivision (61)) definition for Receiving stream”, insert “**The term does not include private drains, unnamed conveyances, retention and detention basins, or constructed wetland used as treatment.**” after “**discharge from an outfall**”.

- Page 15 In subdivision (71), delete **“and negatively”** and replace with **“in such a quantity or quality and to such a degree that it”** after **“an MS4 conveyance”**
Delete **“capability to be consistent”** and replace with **“ability to comply”** after **“impacts the receiving MS4 operator’s”**
- Page 17 In subdivision (90) change (i) to (A), and (ii) to (B). The rest of the definition has been restructured without any content change.
- Page 17 327 IAC 15-13-6(a)
Insert the following text in subdivision (2): **“ For the purposes of the NOI letter submittal, receiving waters include, at a minium, waters listed on the United States Geological Survey National Hydrogeologic Database, or, if no waters are listed on this database within a given MS4 area, the primary receiving water for the MS4 area drainage. As additional receiving waters are identified, the information must be provided in the corresponding annual report, required in section 18 of this rule.”**
- Page 20 327 IAC 15-13-7(a)
Insert **“This characterization may begin with the receiving waters identified in the NOI letter submittal, and, as receiving waters are identified, the characterization shall be expanded to those additional receiving waters and the subsequent information presented in the corresponding annual report, required under section 18 of this rule.”** after **“discharges within the MS4 area”**.
- page 18 327 IAC 15-13-7(b)
Delete **“submission”** after **“(180) days from the”**
Delete **“of”** after **“date”**
Insert **“initial”** before **“NOI letter”**
Insert **“submittal was received by the department, or the expiration date of the previous five (5) year permit term”**
- page 22 327 IAC 15-3-8(a)
Insert additional sentence in subdivision (11) to read: **“The certification forms only need to be complete and submitted during the initial five (5) year permit term.”**
- Page 24 327 IAC 15-3-8(c)
Delete **“of”** and insert **“the initial”** after **“365 days from the”**
Insert **“was received by the department, or the expiration date of the previous five (5) year permit term.”** after **“NOI letter submittal”**
- Page 24 327 IAC 15-3-8(f)
Insert **“, required under section 18 of this rule”** after **“corresponding**

annual report”

- Page 25 327 IAC 15-13-9(d)
Insert **“This review may consider the location and size of the discharge, the quantity and nature of the pollutants discharged, and other relevant factors. Before completing the review, the department will inform the MS4 entity as to what information is being used for the review, and provide the MS4 entity an opportunity to respond if the MS4 entity believes the information used is inaccurate or incomplete.”** after **“NOI letter or other information.”**
- Page 25 327 IAC15-13-9(e)
Delete **“one hundred eighty (180)”** after **“section 6 of this rule, within”**
Insert **“three hundred sixty-five (365)”** after **“section 6 of this rule, within”**
Insert **“of receivership”** after **“the date of”**
- Page 26 327 IAC 15-13-11
In the table header for for Compliance Deadline
Insert **“initial”** after **“from”**
Delete **“submittal”** after **“NOI letter”**
Insert **“receivership”** after **“NOI letter”**
- Page 28 327 IAC 15-13-12(b)
Delete **“of”** and replace with **“the initial”** after **“(365) days from the date”**
Insert **“was received by the department”** after **“NOI letter submittal”**
Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.”** after **“whichever is earlier.”**
- Page 28 327 IAC 15-13-12(d)
Delete **“additions”** and replace with **“language changes to ensure consistency with the SWQMP”** after **“and any necessary”**
- Page 28 327 IAC 15-13-13(b)
Delete **“of”** and replace with **“the initial”** after **“from the date”**
Insert **“was received by the department”** after **“NOI letter submittal”**
Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.”** after **“whichever is earlier”**
- Page 29 327 IAC 15-13-13(d)
Delete **“additions”** and replace with **“language changes to ensure**

consistency with the SWQMP” after “and any necessary”

- Page 31 327 IAC 15-13-14(g)
Delete **“of”** and replace with **“the initial”** after **“from the date”**
Insert **“was received by the department”** after **“NOI letter submittal”**
Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the program shall be reviewed for adequacy and accuracy, and updated, as necessary.”** after **“whichever is earlier”**
- Page 31 327 IAC 15-13-14(k)
Delete **“additions”** and replace with **“language changes to ensure consistency with the SWQMP”** after **“and any necessary”**.
- Page 32 327 IAC 15-13-15(b)
Delete **“as defined in 327 IAC 15-5-4(20)”** after **“common plan of development or sale”**
Delete **“At a minimum”** after **“(1) or more acres of land”**
Insert **“Except for state permitting process references and submittal deadlines of construction plans and permit applications in 327 IAC 15-5”** after **“(1) or more acres of land”**
Insert **“at a minimum”** after **“mechanism must contain”**
Insert **“The MS4 operator may establish a permitting process and timetable for plan and application submittals that is different than that established under 327 IAC 15-5. The permitting process must include a requirement for the construction project site owner to submit a copy of the application directly to the department.”** after **“the requirements of 327 IAC 15-5.”**
Delete **“of”** and replace with **“the initial”** after **“(365) days from the date”**
Insert **“was received by the department”** after **“NOI letter submittal”**
Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary.”**
- Page 33 327 IAC 15-13-15(g)
Delete **“attend”** and replace with **“receive”** after **“construction activities shall”**
Delete **“an”** after **“at a minimum”**
Delete **“session”** after **“annual training,”**
Insert **“such topics as”** after **“addressing”**
Delete **“which has been approved of by the department and the department of natural resources, division of soil conservation”** after **“appropriate control measures.”**
Insert **“inspection protocol, and enforcement.”** after **“appropriate**

control measures,”

- Page 33 327 IAC 15-13-15(k)
Delete “**327 IAC 15-5-6.5(b)(7)**” and replace with “**327 IAC 15-5-6.5(a)(7)**” after “**In addition to the requirements of**”
- Page 34 327 IAC 15-13-16(a)
Delete “**as defined in 327 IAC 15-5-4(20)**” after “**common plan of development or sale**”
- Page 34 327 IAC 15-13-16(b)
Delete “**as defined in 327 IAC 15-5-6.5(b)(8)**” and replace with “**327 IAC 15-5-6.5(a)(8)**”
Delete “**must**” and replace with “**may**” after “**the procedures**”

Delete “**of**” and replace with “**the initial**” after “**(730) days from the date**”
Insert “**was received by the department**” after “**NOI letter submittal**”
Insert “**In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary.**” after “**whichever is earlier**”
- Page 35 327 IAC 15-13-16(d)
Delete “**attend**” and replace with “**receive**” after “**postconstruction BMPs shall**”
Delete “**an**” after “**at a minimum**”
Delete “**session**” after “**annual training**”
Insert “**such topics as**” after “**addressing**”
Delete “**which has been approved of by the department and the department of natural resources, division of soil conservation**” after “**appropriate control measures.**”
Insert “**inspection protocol, and enforcement.**” after “**appropriate control measures,**”
- Page 35 327 IAC 15-13-16(e)
Delete “**of**” and replace with “**the initial**” after “**(730) days from the date**”
Insert “**was received by the department**” after “**NOI letter submittal**”
Insert “**In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary.**” after “**whichever is earlier**”
Delete “**of**” and replace with “**the initial**” after “**(730) days from the**

date”

Insert **“was received by the department”** after **“NOI letter submittal”**

Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary.”** after **“whichever is earlier”**

- Page 35 327 IAC 15-13-17(b)
Delete **“of”** and replace with **“the initial”** after **“(365) days from the date”**
Insert **“was received by the department”** after **“NOI letter submittal”**
Insert **“In subsequent permit terms, the certification form does not need to be completed and submitted. At a minimum, every five (5) years the regulatory mechanism and program shall be reviewed for adequacy and accuracy, and updated, as necessary.”** after **“whichever is earlier”**
- Page 36 327 IAC 15-13-17(b)(2)
Delete clause (G) and renumber the remaining clauses.
Insert **“If applicable, it is recommended that”** after **“Proper disposal of animal waste.”** in preliminary adopted clause (I) (new clause H).
Delete **“shall”** after **“canine parks”** in preliminary adopted clause (I) (new clause H).
- Page 37 327 IAC 15-13-17(d)
Delete **“additions”** after **“and any necessary”**
Insert **“language changes to ensure consistency with the SWQMP”**
- Page 37 327 IAC 15-13-18(a)
Insert **“or additional”** after **“Follow-up”** in subdivision (5)
Insert new subdivision (11) to read as follows: **“Updated receiving water information.”**
Delete **“of”** and replace with **“the”** after **“(365) days from the date”**
Insert **“ was received by the department”** after **Program Implementation submittal.**
- Page 38 327 IAC 15-13-19(a)
Insert **“initial”** after **“from the date the”**
Insert **“Coverage under renewal NOI letters will begin on the date of expiration from the previous five (5) year permit term.”**
- Page 39 327IAC 15-13-20(a)
Delete **“.”** and replace with **“and”** after **“minimum designation criteria”**
Insert **“this”** after **“based on”**
Delete (3) after **“subdivision”**
Remove clause A and delete **“(B)”** after **“will only be considered”**

- Page 39 327 IAC 15-13-20(b)
Insert “**one (1) of the six (6) cases referenced in 327 IAC 15-2-9(b) is applicable**” after “**apply for an individual permit if**”
Delete subdivisions (1) and (2)
- Page 40 327 IAC 15-13-22(a)
Insert “**or the primary contact individual**” after “**corresponding to the MS4 operator**”
- Page 40 327 IAC 15-13-22(b)(2)
Insert “**the**” after “**the regional administrator of**”
- Page 40 327 IAC 15-13-22(d)
Insert “**The commissioner, or an authorized representative, upon providing appropriate credentials, may inspect an MS4 entity regulated under this rule at any time**” at the beginning of the subsection.
- Page 40 327 IAC 15-13-22(f)
Delete “**an**” and replace with “**a regulated**” after “**All projects within**”.